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Attorneys for Plaintiff  
AFFILIATED FM INSURANCE  
COMPANY

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

AFFILIATED FM INSURANCE  
COMPANY, a corporation;

Plaintiff,

v.

OVERNIGHT LOGISTICS, INC., a  
corporation; FREIGHT ALL KINDS,  
INC., a corporation; FAK, INC., a  
corporation; DANIEL MONTALVO  
VILLA, an individual (dba United  
DM Express); and DOES ONE  
through TEN;

Defendants.

Case No.: 2:18-cv-08359

**COMPLAINT FOR NON-  
DELIVERY OF CARGO**

(\$70,942.04)

Plaintiff's complaint follows:

**GENERAL ALLEGATIONS**

1. Plaintiff AFFILIATED FM INSURANCE COMPANY  
("AFFILIATED") is now, and at all times herein material was, a corporation duly  
organized and existing by virtue of law and was the insurer of the hereinafter  
described shipment.

1           2.     Plaintiff is informed and believes and on the basis of that information  
2 and belief alleges that OVERNIGHT LOGISTICS, INC., a corporation; FREIGHT  
3 ALL KINDS, INC., a corporation; FAK, INC., a corporation; DANIEL  
4 MONTALVO VILLA, an individual (dba United DM Express); and DOES ONE  
5 through TEN are now and at all times herein material were engaged in business as  
6 brokers and/or common carriers for hire in the county of San Bernardino, State of  
7 California.

8           3.     The true names of defendants sued herein as DOE ONE through DOE  
9 TEN, each of whom is or may be responsible for the events and matters herein  
10 referred to, and each of whom caused or may have caused or contributed to the  
11 damage herein complained of, are unknown to plaintiff, who therefore sues said  
12 defendants by such fictitious names. Plaintiff will amend its complaint to show  
13 the true names of said defendants when the same have been ascertained.

14           4.     The claims alleged herein contain a cause of action for non-delivery  
15 of cargo and is a claim under the Carmack Amendment, 49 U.S.C. § 14706.  
16 Accordingly, this Court has jurisdiction over this claim pursuant to 28 U.S.C.  
17 §1331. Venue is proper under 28 U.S.C. §1391(b).

18           5.     Plaintiff is informed and believes and on the basis of such  
19 information and belief alleges that on or about August 11, 2017, at Fontana,  
20 California, defendants OVERNIGHT LOGISTICS, INC., FREIGHT ALL KINDS,  
21 INC., FAK, INC., DANIEL MONTALVO VILLA (dba United DM Express), and  
22 DOES ONE through TEN, received a cargo of 1,147 tires and wheels belonging to  
23 plaintiff's insured, Tireco, Inc. and/or related entities. Under bill of lading no.  
24 51344 and others, said defendants, and each of them, agreed, orally and in writing,  
25 and in return for good and valuable consideration, to carry said cargo from  
26 Fontana, California, to Westwego, Louisiana, and there deliver said cargo in the  
27 same good order, condition, and quantity as when received.

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